

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

L.C., a minor child, et al.

Plaintiffs,

v.

WASHOE COUNTY SCHOOL  
DISTRICT, et al.,

Defendants.

Case No. 3:18-CV-0585-MMD-CBC

REPORT AND RECOMMENDATION OF  
UNITED STATES MAGISTRATE JUDGE

This Report and Recommendation is made to the Honorable Miranda M. Du, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR IB 1-4. Before the court is plaintiffs' failure to comply with Local Rule ("LR") IA 3-1 requiring plaintiffs to change their address.

On December 10, 2018, this action was initiated with a motion to proceed *in forma pauperis* and a complaint filed by Clyde McCoy on behalf of three minor children identified as L.C., C.C.M., and J.C.M. (ECF No. 1). The Clerk of Court sent out the standard advisory letter to pro se litigants (ECF No. 2) and a notice to file a civil cover sheet (ECF No. 3). These documents were returned by the U.S. Postmaster and stamped undeliverable (ECF Nos. 6, 9, 10, & 12).

On February 14, 2019, a minute order was issued requiring Mr. McCoy to file a written notification of change of address pursuant to LR IA 3-1 on or before March 16, 2019 (ECF No. 13). Mr. McCoy was cautioned that his failure to do so would result in a dismissal of this action. *Id.* This notice was also returned undeliverable (ECF No. 14).

1 To date, plaintiffs and/or Mr. McCoy have failed to file a notice of change of address  
2 with the court. In fact, plaintiffs have not filed a document with the court since it was  
3 initiated in December 2018 (ECF No. 1). LR IA 3-1 provides that the failure to  
4 "immediately file with the Court written notification of any change of address . . . may  
5 result in dismissal of the action."

6 Prior to dismissal for failure to follow local rules, the court must consider "(1) the  
7 public's interest in expeditious resolution of litigation; (2) the court's need to manage its  
8 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition  
9 of cases on their merits; and (5) the availability of less drastic sanctions." *Carey v. King*,  
10 856 F.2d 1439, 1440 (9th Cir. 1988) (quoting *Henderson v. Duncan*, 779 F.2d 1421, 1423  
11 (9th Cir. 1986)). This litigation cannot proceed or be decided on the merits if the court  
12 and defendants cannot contact plaintiffs or their representative, nor should the court or  
13 defendants be required to continue to try to resolve the case without the plaintiffs'  
14 participation. All five factors clearly favor dismissal of this case.

15 Based on the foregoing and for good cause appearing, the court recommends that  
16 this case dismissed based upon plaintiffs' failure to notify the court of a change of address  
17 pursuant to LR IA 3-1.

18 The parties are advised:

19 1. Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule IB 3-2 of the Local Rules of  
20 Practice, the parties may file specific written objections to this Report and  
21 Recommendation within fourteen days of receipt. These objections should be entitled  
22 "Objections to Magistrate Judge's Report and Recommendation" and should be  
23 accompanied by points and authorities for consideration by the District Court.

24 2. This Report and Recommendation is not an appealable order and any notice  
25 of appeal pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the District  
26 Court's judgment.  
27  
28

**RECOMMENDATION**

IT IS THEREFORE RECOMMENDED that this action be **DISMISSED** for plaintiffs' failure to comply with LR IA 3-1.

DATED: April 24, 2019.



UNITED STATES MAGISTRATE JUDGE